



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : PETE HESSER
Serial Number : 09/729,556
Filed : 12/4/2000
For : TRASH CAN AND CLOSURE SYSTEM
Art Unit : 3727
Examiner : NEWHOUSE, NATHAN J.
Attorney Docket No. : HF46/02

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JAN 08 2004

Commissioner for Patents
Alexandria, VA 22313-1450

TECHNOLOGY CENTER 15700

REQUEST TO WITHDRAW HOLDING OF ABANDONMENT
ISSUED IN ERROR BY PATENT AND TRADEMARK OFFICE

Sir:

This is in response to the Notice of Abandonment in regard to the above-captioned application dated November 18, 2003.

REMARKS

Applicant requests that the Notice of Abandonment be withdrawn. The Notice of Abandonment states that "The appeal in this application is DISMISSED because . . . the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired (and that the Office has received) no reply to the notice of non-compliance (paper #9) re appeal brief filed 1/8/03." Upon receipt of the Notice of Abandonment and since applicant's

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attorney had not receive a copy of paper #9, applicant's attorney contacted the Patent Office requesting a copy which was provided to him on December 17, 2003. An examination of paper #9 reveals that it was mailed improperly directly to applicant Pete Hesser on 4/2/2003. Applicant submits the following time line of events in the appeal for this application:

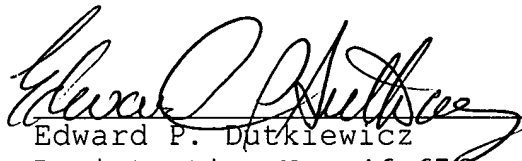
10/30/2002	Appeal Noted
12/30/2002	Applicant's Appeal Brief Mailed to PTO
2/4/2003	Applicant's Attorney Michael J. Colitz, Jr. suspended from Practice Before the PTO
3/10/2003	Revocation/Appointment of Power of Attorney to Edward P. Dutkiewicz mailed to PTO
3/12/2003	Date that OIPE stamped the postcard receipt acknowledging receipt of Power of Attorney to Edward P. Dutkiewicz
4/2/2003	Notification of Non-Compliance with the Requirements of 37 CFR 1.192(c) mailed improperly by the PTO to applicant;
4/9/2003	Notice of Acceptance of Power of Attorney mailed by PTO to Edward P. Dutkiewicz and applicant;
11/18/2003	Notice of Dismissal of Appeal and Abandonment of Application mailed to Edward P. Dutkiewicz;
12/17/2003	Change of Attorney's Address in Application faxed to PTO (note that prior P.O. Box 511, Largo, Florida 33779, remains an active mailing address for Edward P. Dutkiewicz);
12/17/2003	Edward P. Dutkiewicz provided with copy of paper #9 by facsimile from Trudy Mitchell, Customer Service Center.

In view of the foregoing, it is requested that:

- 1) The dismissal of the appeal be withdrawn;
- 2) The abandonment of this application be withdrawn; and
- 3) The date of issuance of the Notice of Non-Compliance be resent to applicant's attorney so that he can properly respond in timely.

If direct contact with Applicant's attorney would expedite the withdrawal of the dismissal of the appeal and abandonment of the application, authorization is given to call the undersigned collect at 727-586-2570.

Respectfully submitted,



Edward P. Dutkiewicz
Registration No. 46,676
640 Douglas Avenue
Dunedin, Florida 34698
727/734-2855

CERTIFICATE OF MAILING

I hereby certify that the foregoing is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner of Patents

and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450 on the
^{JMC}
30th day of December 2003.


Jeanne M. Carrell

Trudy Mitchell

United States Patent & Trademark Office
Customer Service Center, Technology Center 3700



703-306-5648

Date: 12/17/03

Total # of pages including cover sheet 5

To: Sherri Harmon

Recipient Fax: (727-734-2750)

From: Trudy Mitchell

Customer Service Rep.

Customer Service Center

Sender Fax: 703 308-7957

Memo: Good morning Ms. Harmon, here is a copy of paper number 9 for SN 09/729,556, that was requested, if there is anything else that is needed please feel free to call our Customer Service Center.

Thank you
Trudy Mitchell
Customer Service Center
TC- 3700

Fax•Fax Fax•Fax Fax•Fax Fax•Fax Fax•Fax

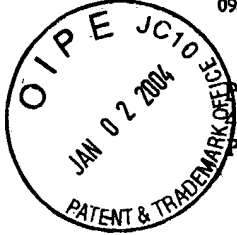
N.K.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,556	12/04/2000	Pete Hesser		4098



Pete Hesser
1 Allworthy St
Port Charlotte, FL 33954

7590

04/02/2003

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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TECHNOLOGY CENTER RJ/00

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR

1.192(c)

The brief does not contain a statement of the status of an amendment filed subsequent to the final rejection as required by 37 CFR 1.192(c)(4). The section "status of amendments" is not needed. ONLY amendments after final and their status are necessary. There have been no amendments after final in this application.

The brief includes a statement that claims 1 and 2 do not stand or fall together, but fails to present reasons in support thereof as required under 37 CFR 1.192(c)(7).
MPEP § 1206.

The brief does not contain a concise statement of the issues presented for review as required by 37 CFR 1.192(c)(6) because there is no mention of the rejection of claim 1 under 35 USC 112, second paragraph. Applicant states in the "Status of Amendments" section that this rejection is not understood. This is not sufficient and arguments concerning this rejection still should be made. The brief does not contain, for each rejection under 35 U.S.C. 112, (second paragraph), an argument which specifies the errors in the rejection and how the claims particularly point out and distinctly claim the subject matter which applicant regards as the invention. (It is to be noted that applicant correctly amended the language in claim 1 concerning this type of language in other locations, but did not do so at line 50 of claim 1.) The brief does not contain arguments of the appellant with respect to each of the issues presented for review in 37 CFR 1.192(c)(6), and the basis therefor, with citations of the authorities,

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Application/Control Number: 09/729,556

Art Unit: 3727

statutes, and parts of the record relied on as required by 37 CFR 1.192(c)(8) as appellant did not include the rejection of claim 1 under 35 USC 112, second paragraph as an issue.

Appellant is required to comply with provisions of 37 CFR 1.192(c).

To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 1.192(c) within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to

Page 4

Application/Control Number: 09/729,556

Art Unit: 3727

Tech Center 3700 Customer Service at (703) 306-5648, email

CustomerService3700@uspto.gov.


Any inquiry concerning the merits of the examination of the application from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

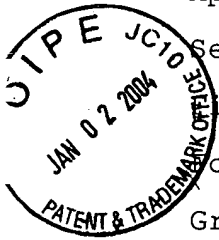
Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov


Nathan J. Newhouse
Primary Examiner
Art Unit 3727

February 27, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : PETE HESSER
Serial Number : 09/729,556
Filed : 12/04/2000
Inventor : TRASH CAN AND CLOSURE SYSTEM
Group Art Unit : 3727
Examiner : NEWHOUSE, Nathan J.
Atty Docket : HD46/01



CHANGE OF ATTORNEY'S ADDRESS IN APPLICATION

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Please send all correspondence for this application as follows:

Edward P. Dutkiewicz
640 Douglas Avenue
Dunedin, Florida 34698-7001

Please direct telephone calls to: (727) 734-2855

Please direct facsimile transmissions to: (727) 734-2750

Respectfully submitted,

Edward P. Dutkiewicz
Reg. No. 46,676
640 Douglas Avenue
Dunedin, Florida 34698
(727) 734-2855

CERTIFICATE OF MAILING

I hereby certify that on the date shown below, this correspondence is being:

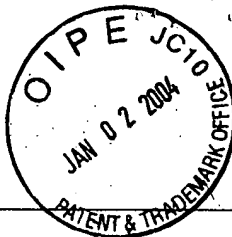
☐ deposited with the United States Postal Service in an envelope address to the Commissioner of Patents, P.O. Box 1450, Alexandria VA 22313-1450

☐ with sufficient postage as first class mail ☐ as "Express Mail Post Office to Addressee"

☒ sent by Facsimile transmission TO (703) 872-9301 37 C.F.R. § 1.6 Mailing Label No. _____

Date: 12.17.03

Sharon S. Harmon



Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/729,556	12/04/2000	Pete Hesser	# D46/01

EDWARD P. DUTKIEWICZ
P.O. BOX 511
LARGO, FL 33779-0511

CONFIRMATION NO. 4098



OC000000009799360

Date Mailed: 04/09/2003

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2003.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

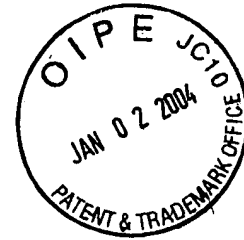
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RUTH N COBB
3700 (703) 305-3577

ATTORNEY/APPLICANT COPY

ATTORNEY DOCKET: HD46/01
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: PETER HESSER
SERIAL NUMBER: 09/729,556
FILED: 12/04/2000
FOR: TRASH CAN AND CLOSURE SYSTEM
ART UNIT: 3727
EXAMINER: NEWHOUSE, NATHAN J.
Assistant Commissioner for Patents
Washington, D.C. 20231



REVOCATION/APPOINTMENT OF POWER OF ATTORNEY
OR AUTHORIZATION OF AGENT

Sir:

1. I hereby revoke all previous powers of attorney or authorization of agents in the above identified application.

2. I hereby appoint the following person as my attorney or agent to prosecute said application, and to transact all business in the Patent and Trademark Office connected therewith:

Edward P. Dutkiewicz
Registration No. 46,676

3. Change the correspondence address and direct all further correspondence to:

Edward P. Dutkiewicz
P.O. Box 511
Largo, Florida 33779-0511

FILED IN THE U.S. PATENT & TRADEMARK OFFICE

Applicant: *HESSER*
Serial No. *09/729,556*
Filing Date: *12-4-00*



Title: *TRASH CAN AND CLOSURE SYSTEM*
Transmitted Herewith is:

**REVOCATION/APPOINTMENT OF
POWER OF ATTORNEY OR AUTHORIZATION OF AGENT**

CERTIFICATE OF MAILING FOR: *3-10-03*
ATTORNEY DOCKET NO. *HD46/01*

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INC.

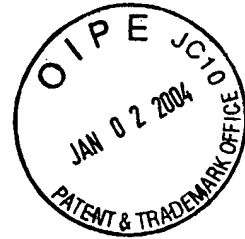
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ATTORNEY DOCKET: HD46/01
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: PETER HESSER
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ART UNIT: 3727
EXAMINER: NEWHOUSE, NATHAN J.



Assistant Commissioner for Patents
Washington, D.C. 20231

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Edward P. Dutkiewicz
Registration No. 46,676

3. Change the correspondence address and direct all further correspondence to:

Edward P. Dutkiewicz
P.O. Box 511
Largo, Florida 33779-0511

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JAN 08 2004

TECHNOLOGY CENTER

I am an officer of the assignee hereof.

PCH ENTERPRISES, INC.

2/10/03
DATE

PETE HESSER

CERTIFICATE OF MAILING

I hereby certify that, on the date shown below, this correspondence is being:

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

☒ 37 C.F.R. § 1.8(a) with sufficient postage AS first class mail ☐ 37 C.F.R. § 1.10 as "Express Mail Post Office to Addressee"

Mailing Label No. _____

Date: 3-10-03

Jeanne M. Carrell